



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,795	05/18/2006	Dieter Boeckh	289275US0PCT	4756
22850	7590	02/18/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
MRUK, BRIAN P				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
02/18/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

### Office Action Summary

**Application No.**

10/579,795

**Applicant(s)**

BOECKH ET AL.

**Examiner**

Brian P. Mruk

**Art Unit**

1796

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office action is in response to Applicant's amendment filed November 24, 2008. Applicant has amended claim 1. New claim 13 has been added. Currently, claims 1-9 and 11-13 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 20080813.
3. The rejection of claims 1-9 and 11-12 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Galleguillos et al, U.S. Patent No. 6,361,768, is maintained for the reasons of record.
4. The rejection of claims 1-9 and 11-12 under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Morschhauser et al, U.S. Patent No. 6,645,476, is withdrawn in view of applicant's amendments and remarks.

### **NEW GROUNDS OF REJECTION**

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim 13 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Galleguillos et al, U.S. Patent No. 6,361,768.

Galleguillos et al, U.S. Patent No. 6,361,768, discloses a hydrophilic ampholytic polymer comprising 35-95 mole percent of at least one nonionic hydrophilic monomer, such as methoxy-polyethyleneoxide-(meth)acrylates (see col. 4, lines 43-46 and col. 7, lines 51-66), and 10-45 mole percent of at least one non-quaternized nitrogen monomer, such as N-vinylpyrrolidone, N-vinylcaprolactam, vinylpyridine, N-

vinylformamide, and N-vinylacetamides (see col. 4, lines 40-42 and col. 5, line 41-col. 7, line 19). It is further taught by Galleguillos et al that the polymer is used in cleaning compositions in an amount of 0.5-15% by weight (see col. 46, lines 64-67), wherein the composition further contains 5-25% by weight of surfactants (see col. 16, lines 11-15), per the requirements of the instant invention. Specifically, note Examples 1-33. Although Galleguillos et al is silent with respect to the molecular weight of their polymers, the examiner asserts that the polymers disclosed in Galleguillos et al would inherently meet the molecular weight requirements, since the polymers disclosed in Galleguillos et al contain all of the required monomer units in the molar amounts required in the instant claims, absent a showing otherwise. Therefore, instant claim 13 is anticipated by Galleguillos et al, U.S. Patent No. 6,361,768.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

7. Claim 13 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Morschhauser et al, U.S. Patent No. 6,645,476.

Morschhauser et al, U.S. Patent No. 6,645,476, discloses a water-soluble co-polymer for use in cosmetic compositions, wherein the co-polymer contains a macro-monomer having a hydrophobic moiety and one or more olefinically unsaturated co-

monomers which contain a nitrogen atom (see abstract and col. 2, lines 18-28). It is further taught by Morschhauser et al that the macro-monomer having a hydrophobic moiety includes monomers containing a C<sub>10</sub>-C<sub>22</sub> alkyl radical in an amount of 50.1-99 mole% of the copolymer (see col. 3, lines 25-62 and col. 4, lines 1-4), and that the one or more olefinically unsaturated co-monomers include non-quaternized nitrogen compounds, such as such as N-vinylpyrrolidone, N-vinylcaprolactam, vinylpyridine, N-vinylformamide, and N-vinylacetamides (see col. 2, line 51-col. 3, line 7, and col. 3, lines 29-35). Morschhauser et al further discloses that the co-polymers have a number-average molecular weight of 1,000-1,500,000 g/mol (see col. 4, lines 1-15), that the co-polymers are cross-linked (see col. 4, lines 16-29), and that the co-polymers have a viscosity of 20,000-100,000 mPas (see col. 4, lines 51-59). It is further taught by Morschhauser et al that the co-polymers are used in combination with anionic, nonionic, cationic, zwitterionic and amphoteric surfactants to form cleaning compositions (see col. 6, line 8-col. 7, line 54). Specifically, note Examples 41-51, which disclose formulation compositions that contain the water-soluble co-polymer in combination with various surfactants, water and solvents. Therefore, instant claim 13 is anticipated by Morschhauser et al, U.S. Patent No. 6,645,476.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

***Response to Arguments***

8. Applicant's arguments filed November 24, 2008 have been fully considered but they are not persuasive.

Applicant argues that claim 1 has been amended by deleting the transitional phrase "comprising" in favor of the more limiting term of --consisting of--. However, the examiner notes that instant claim 1 does not contain the transitional phrase "consisting of", but rather "consists essentially of".

Applicant argues that Galleguillos et al, U.S. Patent No. 6,361,768, requires an anionic monomer which must contain at least one carboxy-functional group, which is not required in the instant claims. However, the examiner respectfully disagrees. Specifically, the examiner asserts that instant claim 1, as presently written, recites that the copolymer may contain 0-10% by weight of other anionic monoethylenically unsaturated monomers. Furthermore, page 7, lines 10-36 of the instant specification indicates that suitable anionic monomers include monomers that contain a carboxy-functional group. Therefore, the examiner asserts that that the copolymers disclosed in Galleguillos et al clearly meet all of the monomer limitations of the instant claims, since anionic monomers that contain carboxy-functional groups are not excluded from the instant claims.

With respect to newly added claim 13, the examiner notes that the variable  $R^3$  includes an alkyl group that contains 1-22 carbon atoms. Therefore, the examiner asserts that instant claim 13 is anticipated by Morschhauser et al, U.S. Patent No.

6,645,476, for the reasons of record found in the last Office action, Paper No. 20080813.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian P Mruk/  
Primary Examiner, Art Unit 1796

Brian P Mruk  
February 12, 2009

Brian P Mruk  
Primary Examiner  
Art Unit 1796